

**REMARKS**

Claims 1-4, 8-12, 15-19 and 22 have been canceled, without prejudice. Claims 5-7, 13, 14 and 20 have been amended. The application as amended contains claims 5-7, 13, 14, 20 and 21. Applicants reserve the right to pursue the original claims and other claims in this and other applications.

Claims 20 and 21 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Reconsideration is respectfully requested. The claims have been amended to obviate the rejection.

Claims 5-7, 13, 14, 20 and 21 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Reconsideration is respectfully requested. The claims (their preambles) have been amended to obviate the rejection.

Claims 5-7, 13 and 14 are rejected under 35 U.S.C. § 102 as being anticipated by Narumi. Reconsideration is respectfully requested. Claim 5, which contains all the limitations of original claim 8, has been further amended to state that “the location of said count zone is different than the location of the zone where said information recording has been performed.” This is an important aspect of the claimed invention. Please refer, by way of example, to pages 26 and 27 of Applicants’ specification. Narumi does not disclose or suggest the limitations of amended claim 5 (not in column 18, lines 4-18, or anywhere else). Therefore, claim 5, as amended, should be allowable.

Claim 5 relates to a method of determining an optimum power for recording information on a second layer 203 (Fig. 11) of a multi-layer medium, where test zones 202C, 203C are provided in the multiple layers 202, 203 in the same recording surface. In operation, the optimum value is determined by test writing on the test zone 203C of the second layer 203, but only after information is recorded on the test zone 202C of the first layer 202. After the information is recorded on the first-layer test zone 202C, indicator information indicating the

location of the recorded zone 202C1 is recorded in a count zone (Fig. 14, Steps S23, S26). The location of the count zone (Fig. 15) is different than the location of the recorded zone 202C1.

Narumi merely refers to an apparatus 900 (Fig. 9) that uses a reproduction section 904 to determine whether a portion of an area 875 (Fig. 8) is in a recorded or an unrecorded state (column 18, lines 4+). Narumi fails to disclose or suggest the method of claim 5, where, “after information is recorded on the upper recording layer . . . indicator information indicating a zone where said information recording has been performed is recorded in a [separately located] zone of the recording medium.”

The remaining claims (claims 6, 7, 13, 14, 20 and 21) depend from claim 5 or recite limitations similar to those discussed above in connection with claim 5. The remaining claims should be allowable along with claim 5 and for other reasons. Accordingly, allowance of the application, as amended, with claims 5-7, 13, 14, 20 and 21, is solicited.

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Respectfully submitted,

By 

Mark J. Thronson

Registration No.: 33,082

DICKSTEIN SHAPIRO LLP

1825 Eye Street, NW

Washington, DC 20006-5403

202-420-4742

Attorney for Applicant